

Assembly Bill No. 1906

CHAPTER 463

An act to add Section 2106.5 to the Code of Civil Procedure, and to add Sections 27279.2 and 27279.4 to, to add and repeal Section 27279.3 of, and to repeal and add Section 27279.1 of, the Government Code, relating to local agency procedures.

[Approved by Governor September 13, 1998. Filed
with Secretary of State September 14, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1906, Brewer. Local agency procedures: recordable instruments.

Existing law, until January 1, 1999, authorizes the county recorders in the Counties of San Bernardino and Orange to accept for recording, in lieu of a written paper document, a digitized image of a recordable instrument if specified conditions are met.

This bill would revise and recast these provisions to require that the requester and the addressee for delivery of the recorded image meet specified criteria, and would make the authorization permanent for these counties. The bill would also limit until January 1, 2000, the authorization of requesters and addressees that are licensed title insurers or licensed title companies who may submit a digitized instrument or document for recording. The bill would also, effective January 1, 2000, expand the requesters and addressees that the counties may accept for delivery of a recorded image if certain conditions are met.

This bill would require the state Attorney General to appoint an Electronic Recordation Task Force to meet on a regular basis to address technical, legal, security, and economic issues associated with electronic recordation, recommend which persons and entities should be authorized to digitize and record documents electronically after January 1, 2000, and prepare and submit recommendations to the Governor and the Legislature by July 1, 1999.

The bill would also authorize the transmission, filing, recording, and indexing of notices of federal tax liens by electronic or magnetic means, using computerized data processing, telecommunications, and other similar information technologies available to the filing offices.

The people of the State of California do enact as follows:

SECTION 1. Section 2106.5 is added to the Code of Civil Procedure, to read:

2106.5. This title shall be applied and construed to permit the transmission, filing, recording, and indexing of notices of federal tax liens and all certificates that relate to or affect those liens, including, but not limited to, certificates of release, discharge, subordination, and nonattachment, by electronic or magnetic means, using computerized data processing, telecommunications, and other similar information technologies available to the filing offices.

SEC. 2. Section 27279.1 of the Government Code is repealed.

SEC. 3. Section 27279.1 is added to the Government Code, to read:

27279.1. (a) The recorders of San Bernardino County and Orange County may accept, in lieu of a written paper document, a digitized image of a recordable instrument if both of the following conditions are met:

(1) The requester and addressee for delivery of the recorded image meets the criteria set forth in either Section 27279.2 or 27279.3.

(2) The county recorder determines that accepting electronically recorded documents from the requester is in the best interest of the county and the public. Factors the county recorder shall consider include, but are not limited to, both of the following:

(A) Whether or not the volume and quality of digitized instruments submitted by the requester will be sufficient to warrant electronic recordation.

(B) Whether, in order to protect the county and the public, the requester has effective security precautions addressing potential fraud and forging of documents in the electronic recordation process.

(b) The Legislature finds and declares that, because of the unique circumstances applicable to the counties referenced in subdivision (a), as regards the present ability of these counties to process digitized images for electronic recordation, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

SEC. 4. Section 27279.2 is added to the Government Code, to read:

27279.2. For purposes of Section 27279.1, the requester and addressee for delivery of a recorded image may record a digitized image of a recordable instrument if it is an entity, agency, branch, or instrumentality of the state or federal government qualifying under either Section 27279 of this code or Section 2106.5 of the Code of Civil Procedure.

SEC. 5. Section 27279.3 is added to the Government Code, to read:

27279.3. (a) For purposes of Section 27279.1, a requester and addressee for delivery of a recorded image may record a digitized image of a recordable instrument if it is a licensed title insurer, as defined in Section 12340.4 of the Insurance Code, or a licensed

underwritten title company, as defined in Section 12340.5 of the Insurance Code.

(b) This section shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, enacted before January 1, 2000, deletes or extends that date.

SEC. 6. Section 27279.3 is added to the Government Code, to read:

27279.3. (a) A requester and addressee for delivery of a recorded image may record a digitized image of a recordable instrument if the requester meets the conditions set forth in paragraph (2) of subdivision (a) of Section 27279.1.

(b) This section shall become operative on January 1, 2000.

SEC. 7. Section 27279.4 is added to the Government Code, to read:

27279.4. (a) The California Attorney General shall appoint an Electronic Recordation Task Force consisting of voluntary representatives from governmental agencies and industry groups specified in subdivision (b) who shall meet on a regular basis to address the technical, legal, security and economic issues associated with electronic recordation. The task force shall make recommendations regarding all of the following:

(1) In addition to requesters qualifying under Section 27279.2, which persons and entities should be authorized to digitize and record documents electronically after January 1, 2000, in order to limit real property fraud, forgery, and consumer risks associated with electronic recordation and provide a cost benefit to the county.

(2) Guidelines for the standardization of both software and hardware used by counties to ensure maximum efficiency, cost effectiveness, and maximum use of the electronic recordation process by requesters qualifying under Sections 27279.2 and 27279.3.

(3) Appropriate recording fees and other assessments to cover increased costs to both county recorders and requesters.

(b) The task force described in subdivision (a) shall consist of representatives from governmental and industry groups, including county recorders, county district attorneys, the Franchise Tax Board, Fannie Mae, the United States Internal Revenue Service, trustees, mortgage bankers, financial institutions, and the title insurance and real estate industries.

(c) Notwithstanding Section 7550.5, the task force shall prepare and submit its complete recommendations to the Governor and the Legislature no later than July 1, 1999.

